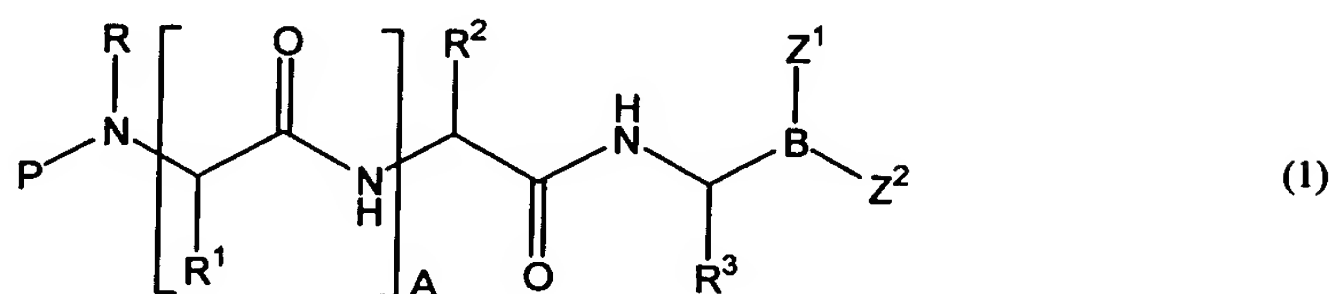


REMARKS

The Present Invention

The invention provides a compound of the formula (1):



in which Z^1 and Z^2 are moieties derived from sugar. The invention also provides a lyophilized compound of formula (1), a composition comprising the compound of formula (1), and a lyophilized cake comprising the compound of formula (1). The invention also provides a method for preparing such a compound.

The Pending Claims

Claims 1, 5, 8-12, 14-17, 20, 24-28, 30-35, and 41-109 are pending. Claims 1, 5, 8-12, 14-16, 79, and 87-89 are directed to the compound of formula (1). Claims 56-59, 80, and 90-92 are directed to a composition comprising the compound of formula (1). Claims 17, 20, 24-24, 30-34, 81, and 93-95 are directed to the lyophilized compound of formula (1). Claims 60-63, 82, and 96-98 are directed to a composition comprising the lyophilized compound of formula (1), and claims 55, 64-66, 83, and 99-101 are directed to a lyophilized cake comprising the compound of formula (1). Claims 35, 41-54, 68-70, 84, and 102-105 are directed to the method for preparing the compound of the invention, which can be part of a composition as recited in claims 71-74, 85, 106, and 107, or a lyophilized cake as recited in claims 75-78, 86, 108, and 109.

The Amendments to the Specification

Paragraph [0001] has been amended to reflect the application number of one of the priority applications referenced in the Cross Reference to Related Applications. Paragraphs [0043], [0049], [0072], [0078], [0100], and [0112] have been amended to correct typographical errors. With respect to paragraph [0049], "C₆-C₁₀ alkylsulfinyl, C₆-C₁₀ alkylsulfonyl" has been changed to "C₁-C₆ alkylsulfinyl, C₁-C₆ alkylsulfonyl," as supported by the instant specification at, for example, paragraph [0043]. Paragraph [0078] has been amended to recite the IUPAC name of the referenced compound. No new matter has been added by way of these amendments.

The Amendments to the Claims

Claims 1, 17, and 35 have been amended to correct typographical errors. In that respect, the amendment to claim 35 is supported by the specification at, for example, paragraphs [0027]-[0033] and [0102]-[0112]. Claims 56-109 are new. Claims 56-63, 67-74, 80, 82, 85, 90-92, 96-98, and 104-107 are supported by the instant specification at, for example, paragraphs [0100], [0112], [0136], [0137], and Example 3. Claims 64-66, 75-78, 83, 86, 99-101, 108, and 109 are supported by original claim 55. Claims 79-86 are supported by the instant specification at, for example, paragraphs [0072]-[0086], [0125]-[0133], the Examples, and original claims 10, 12, 15, 16, 28, 31, 32, 45, 47, and 48. Claims 87-109 are supported by the instant specification at, for example, paragraphs [0041]-[0049], [0074], [0079]-[0086], [0125]-[0133], and the Examples. No new matter has been added by way of these amendments or claim additions.

The Office Action and Discussion of Rejections

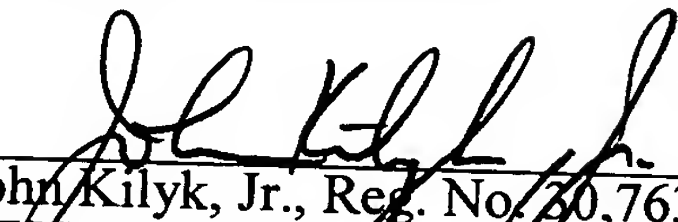
Claims 1-16 are provisionally rejected under 35 U.S.C. § 101 for allegedly claiming the same invention as that of claims 1-4 of U.S. Patent Application No. 10/056563. Claims 17-55 are provisionally rejected under the judicially-created doctrine of obviousness-type double patenting for allegedly being unpatentable over claims 33-51 of U.S. Patent Application No. 10/056563. According to M.P.E.P. 804(1)(B), if a "provisional" double patenting rejection is the only rejection remaining in a patent application, the rejection should be withdrawn and the patent application permitted to issue as a patent, thereby converting the "provisional" double patenting rejection into a double patenting rejection at the time the patent application issues as a patent. In that the provisional double patent rejections are the only claim rejections set forth in the Office Action, Applicants respectfully request withdrawal of the rejections and allowance of the patent application in accordance with M.P.E.P. 804.

Conclusion

The application is considered in good and proper form for allowance, and the Examiner is respectfully requested to pass this application to issue. If, in the opinion of the Examiner, a telephone conference would expedite the prosecution of the subject application, the Examiner is invited to call the undersigned attorney.

In re Appln. of Shanker GUPTA
Application No. 10/056,567

Respectfully submitted,



John Kilyk, Jr., Reg. No. 20,763
LEYDIG, VOIT & MAYER, LTD.
Two Prudential Plaza, Suite 4900
180 North Stetson
Chicago, Illinois 60601-6780
(312) 616-5600 (telephone)
(312) 616-5700 (facsimile)

Date: September 8, 2003